

# Circular 230: 2009 Style



# Scenario 1

Practitioner A has prepared Harry's tax returns (of Harry's Mobile Tailor Shop) for many years. Harry's 2008 tax return is selected for audit. Although Harry can wield a needle well, his recordkeeping is sloppy. The revenue agent asks for a copy of Harry's mileage log for his vehicle. Harry forgot to keep a mileage log.

When preparing the return, Harry told Practitioner A he had 8,000 business miles. After discussing this with Harry, Practitioner A tells the revenue agent Harry "lost" his mileage log. Harry does know he visited each of his 2008 clients at least twice.



# Scenario 2

Your new employer, a firm that specializes in tax resolution services, has hired you as a tax practitioner to handle Offers in Compromise submissions for its clients. You are familiar and competent with this type of work having submitted many OIC's over the years in your solo practice. In your first week of work, your employer presents you with 50 forms 2848 Power of Attorney requesting you sign as the representative.

You are told that your signature is required because all of the clients' cases require specific actions in the near future, but you will not personally meet these individual taxpayers, and that most of the work will be performed by non-practitioners that you will not be overseeing. But you are assured by your employer that the company provides only the finest services to its clients.

What do you do?



# Scenario 3

It is nearing tax season and you have a client who in past years has been habitually late in paying his bills. In fact, this client still owes you for last year's service.

A friend suggests that you change the client's address with the Service and have his refund routed to your business address.

The friend notes that you can hold the check until you are paid and further suggests that this would not be a violation of Circular 230 because you are not actually negotiating the check.

What would you do?



# Scenario 4

Practitioner D wants to expand his business and plans a new marketing campaign. Having passed all parts of the Enrolled Agent's exam, he prints new business cards that say "IRS Approved and Certified" and "Enrolled Agent admitted to practice before the IRS."

He also has brochures printed that state "32 S Corporation returns prepared in 2008" and "Average client refund of over \$2,800!" Finally, he mails brochures on his insurance business to his tax clients and brochures on his tax business to his insurance clients.





# Scenario 5

Practitioner E's new client, Executive, is being audited. Executive is always busy and has been slow in providing the requested documents. Practitioner E, still missing some documents, tells his assistant to reschedule the IRS meeting, because he is sick (he's not).

At the next meeting, Practitioner E provides some documentation to the IRS and says he is "organizing" the rest of it. (Executive still has not provided it). Later Executive provides a spreadsheet with the remaining information. When Practitioner E inquires about the info, Executive says he made it up. Practitioner E provides the spreadsheet to the IRS as is.

# Scenario 6

Practitioner F prides himself on providing outstanding client service. He visits the house of a new client to obtain tax information and meets Client's wife and four children. Practitioner F is in awe of the large house and new Mercedes SUV with temporary tags in the driveway.

Practitioner F is surprised when Client provides documents showing only \$50,000 of wages, \$40,000 of mortgage interest, and \$600 of interest and dividends. Client claims to have no other income and tells Practitioner F to “go work your tax magic” because he needs the refund for a cruise next month.



# Scenario 7

Practitioner G is preparing Client's tax return. Client sold his principal residence in 2008 for a sizable gain. Unfortunately, Client narrowly fails the test to claim the personal residence exclusion.

Practitioner G has researched the issue thoroughly and concluded Client does not qualify to exclude the gain. Client asks about his chances of getting caught on audit if he excludes gain anyway. Practitioner G refuses to sign any return that excludes the gain. Client then asks Practitioner to prepare the return both ways – reporting and excluding gain – and Client will decide later which one to file.





# Scenario 8

Your client refuses to pay you for services already rendered. Her tax return is due in one month and she has retained a new preparer.

Now she is demanding the return of a schedule you prepared, an appraisal that she provided to you, and her old tax returns.

A colleague of yours suggest that your state permits the retention of records when there is a fee dispute and that you do not have to return them.

Is your colleague correct?

What would you do?



# Scenario 9

Client attended a seminar where he learned by starting a small business he could do the following to minimize federal taxes:

- hire your minor children and pay them a wage rather than an allowance
- deduct food and veterinary bills for the family dog since the dog provides security services,
- Deduct vacations as business development trips,
- Deduct weddings if you invite enough potential business clients, and
- Deduct meals and housing for your employees (spouse and children), because you require them to live on the premises.

Client brings Practitioner I the information to prepare his return, including an already completed Schedule C. The schedule C shows wages of \$10,000 paid to each of the children and spouse and expenses for dog food.



# How to Contact OPR

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